101st Congress, 1st Session - - - - - - - - - - House Document 101-59

U.S.-EUROPEAN ECONOMIC COMMUNITY FISHERIES AGREEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES, PURSUANT TO 16 U.S.C. 1823(a)

MAY 3, 1989.—Message and accompanying papers referred to the Committee on Merchant Marine and Fisheries and ordered to be printed

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To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an agreement effected by exchange of notes on November 23, 1988, and January 17, 1989, extending for the period of 2 years from July 1, 1989, until July 1, 1991, and amending to conform with current U.S. law, the Agreement between the Government of the United States of America and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, signed at Washington on September 21, 1984. The exchange of notes together with the present agreement constitute a governing international fishery agreement within the meaning of section 201(c) of the act.

U.S. fishing industry interests have urged prompt consideration of this agreement, and, similarly, I request that the Congress give favorable consideration to this agreement at an early date to avoid disruption of ongoing cooperative ventures.

Since 60 calendar days of continuous session, as required by the legislation, may not be available before the current agreement is scheduled to expire, I recommend the Congress consider passage of a joint resolution.

GEORGE BUSH.

THE WHITE HOUSE, *May 3, 1989.*

AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE EUROPEAN ECONOMIC COMMUNITY
CONCERNING FISHERIES OFF THE COASTS OF
THE UNITED STATES

AFTALE
MELLEM REGERINGEN FOR AMERIKAS FORENEDE STATER
OG DET EUROPÆISKE ØKONOMISKE FÆLLESSKAB
OM FISKERI UD FOR
DE FORENEDE STATERS KYSTER

ABKOMMEN
ZWISCHEN DER REGIERUNG
DER VEREINIGTEN STAATEN VON AMERIKA
UND DER EUROPAEISCHEN WIRTSCHAFTSGEMEINSCHAFT
UEBER DIE FISCHEREI VOR DEN KUESTEN
DER VEREINIGTEN STAATEN

ΣΥΜΦΩΝΙΑ
ΜΕΤΑΞΥ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ ΤΩΝ ΗΝΩΜΕΝΩΝ ΠΟΛΙΤΕΙΩΝ ΑΜΕΡΙΚΗΣ
ΚΑΙ ΤΗΣ ΕΥΡΩΠΑΪΚΗΣ ΟΙΚΟΝΟΜΙΚΗΣ ΚΟΙΝΟΤΗΤΑΣ
ΓΙΑ ΤΑ ΑΛΙΕΥΜΑΤΑ ΣΤΑ ΑΝΟΙΚΤΑ ΤΩΝ ΑΚΤΩΝ
ΤΩΝ ΗΝΩΜΕΝΩΝ ΠΟΛΙΤΕΙΩΝ

ACCORD
ENTRE LE GOUVERNEMENT DES ETATS-UNIS
D'AMERIQUE ET LA COMMUNAUTE ECONOMIQUE EUROPEENNE
CONCERNANT LES PECHERIES AU LARGE DES COTES
DES ETATS-UNIS

ACCORDO
TRA IL GOVERNO DEGLI STATI UNITI D'AMERICA
E LA COMUNITA' ECONOMICA EUROPEA
RELATIVO ALLA PESCA AL LARGO DELLE COSTE
DEGLI STATI UNITI

OVEREENKOMST
TUSSEN DE REGERING VAN DE VERENIGDE STATEN VAN AMERIKA
EN DE EUROPESE ECONOMISCHE GEMEENSCHAP
INZAKE DE VISSERIJ VOOR DE KUSTEN VAN
DE VERENIGDE STATEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY (hereinafter referred to as "the Community"),

CONSIDERING their common concern for the rational management, conservation and achievement of optimum yield of fish stocks off the coasts of the United States;

RECOGNIZING that the United States has established by Presidential Proclamation of 10 March 1983 an exclusive economic zone within 200 nautical miles of its coasts within which the United States has sovereign rights to explore, exploit, conserve and manage all fish and that the United States also has such rights over the living resources of the continental shelf appertaining to the United States and anadromous species of fish of United States origin;

RECOGNIZING that the Community has been co-operating for the rational management and conservation of the living resources off the coasts of the United States and that Community fishermen traditionally have been co-operating in the development of these resources under the Agreement between the Government of the United States and the European Economic Community concerning fisheries off the coasts of the United States, signed 15 February 1977; and

DESIROUS of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States has sovereign rights to explore, exploit, conserve and manage;

HAVE AGREED AS FOLLOWS:

ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Member States of the Community for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

ARTICLE II

As used in this Agreement, the term:

1) "living resources over which the United States has sovereign rights to explore, exploit, conserve and manage" means:

   all fish within the exclusive economic zone of the United States (except highly migratory species of tuna), all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the United States exclusive economic zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2) "fish" means:

   all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3) "fishery" means:

a) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

b) any fishing for such stocks;

4) "exclusive economic zone" means:

a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5) "fishing" means:

a) the catching, taking or harvesting of fish;

b) the attempted catching, taking or harvesting of fish;

c) any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;

d) any operations at sea, including processing, directly in support of, or in preparation for, any activity described in subparagraphs a) through c) above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

6) "fishing vessel" means:

any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for:

a) fishing, or

b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7) "highly migratory species" means:

species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8) "marine mammal" means:

any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for fishing vessels of the Member States of the Community to harvest, in accordance with terms and conditions to be established in permits issued under Article VII, that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels and is determined to be available to fishing vessels of Member States of the Community in accordance with United States law.

appropriate

2. The Government of the United States shall determine each year, subject to such adjustments as may be [necessitated by unforeseen circumstances affecting the stocks] and in accordance with United States law:

a) the total allowable catch for each fishery based on optimum yield, taking into account the best available scientific evidence, and social, economic and other relevant factors;

b) the harvesting capacity of United States fishing vessels in respect of each fishery;

c) the portion of the total allowable catch for a specific fishery to which access will be provided, on a periodic basis each year, to foreign fishing vessels; and

d) the allocation of such portion that may be made available to the Community.

3. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery in accordance with United States law.

Such measures may include, inter alia:

a) designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b) limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c) limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in a designated area for a specified fishery;

d) requirements as to the types of gear that may, or may not, be employed; and

e) requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Community of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to the Community, and to other countries, the Government of the United States will decide on the basis of the factors identified in [the Magnuson Fishery Conservation and Management Act, as amended, that is]:

" i) whether, and to what extent, such nation imposes tariff barriers or non-tariff barriers on the importation, or otherwise restricts the market access, of United States [fish or fishery products];

ii) whether, and to what extent, such nation is co-operating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

iii) whether, and to what extent, such nation and the fishing fleets of such nation have co-operated with the United States fishing regulations;

iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

vii) whether, and to what extent, such nation is co-operating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

viii) such other matters as the Secretary of State, in co-operation with the Secretary, deems appropriate.".

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ARTICLE V

The Community shall co-operate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as facilitating the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Community, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

ARTICLE VI

The Community shall take all necessary measures to ensure:

1) that nationals and vessels of the Member States of the Community refrain from fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage except as authorized pursuant to this Agreement;

2) that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States, and

3) that the total allocation referred to in Article III, paragraph 2 d) of this Agreement is not exceeded for any fishery.

ARTICLE VII

The Community may submit an application to the Government of the United States for a permit for each fishing vessel of a Member State of the Community that wishes to engage in fishing in the exclusive economic zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with the Annex, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of fees for such permits and for fishing in the United States exclusive economic zone. The Community undertakes to keep the number of applications to the minimum required, in order to aid in the efficient administration of the permit program.

INSERT

ARTICLE VIII

The Community shall ensure that nationals and vessels of Member States of the Community refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States exclusive economic zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE IX

The Community shall ensure that in the conduct of the fisheries under this Agreement:

1) the authorizing permit for each vessel of a Member State of the Community is prominently displayed in the wheel house of such vessel;

2) appropriate position-fixing and identification equipment as determined by the Government of the United States, is installed and maintained in working order on each vessel;

3) designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the courtesies and accommodations provided to ship's officers while aboard such vessel, and owners, operators and crews of such vessel shall co-operate with observers in the conduct of their official duties, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4) agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a vessel of a Member State of the Community for any cause arising out of the conduct of fishing activities for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage; and

5) all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of a Member State of the Community as determined by applicable United States procedures.

ARTICLE X

The Community shall take all appropriate measures to assist the United States in the enforcement of its laws pertaining to fishing in the exclusive economic zone and to ensure that each vessel of a Member State of the Community that engages in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement officer of the United States and shall co-operate in such enforcement action as may be undertaken pursuant to the laws of the United States.

ARTICLE XI

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of Member States of the Community or their owners, operators, or crews that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. In any case arising out of fishing activities under this Agreement, the penalty for violation of fishery regulations shall not include imprisonment except in the case of an enforcement related offenses such as assault on an enforcement officer or refusal to permit boarding and inspection.

4. In cases of seizure and arrest of a vessel of a Member State of the Community by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Community and the Member State concerned of the action taken and of any penalties subsequently imposed.

ARTICLE XII

1. The Government of the United States and the competent agencies of the Community shall co-operate in the conduct of scientific research required for the purpose of managing and conserving living resources over which the United States has sovereign rights to explore, exploit, conserve and manage, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Parties shall co-operate in the development of a periodic research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by agreement. The agreed research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board of a fishing vessel of a Member State of the Community in the United States exclusive economic zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with Article VII.

4. The Community shall co-operate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States. add

ARTICLE XIII

In the interest of conservation, restoration, enhancement and rational management of salmon stocks of United States origin as well as of Community origin, both Parties shall consult and co-operate under the Convention for the Conservation of Salmon in the North Atlantic Ocean.

ARTICLE XIV

1. The Government of the United States and the Community shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further co-operation in the field of fisheries of mutual concern, including co-operation within the framework of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

2. At the request of either Party any dispute concerning the interpretation or application of this Agreement shall be the subject of consultations between the Parties.

ARTICLE XV

The Government of the United States undertakes to authorize fishing vessels of Member States of the Community allowed to fish pursuant to this Agreement to enter ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

ARTICLE XVI

Should the Government of the United States indicate to the Community that nationals and vessels of the United States wish to engage in fishing in the Community's fishing zone the Community shall, in accordance with the provisions of the Common Fisheries Policy, allow such fishing on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XVII

Nothing contained in the present Agreement shall prejudice:

1) the views of either Party with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries; or

2) any other international rights and obligations of either Party.

ARTICLE XVIII

The Agreement shall apply to the territories in which the Treaty establishing the Community applies, under the conditions of that Treaty, and to the United States, its territories and its possessions.

ARTICLE XIX

1. This Agreement, together with the Agreed Minutes which form an integral part thereof, shall enter into force on a date to be agreed upon by exchange of notes, following the completion of internal procedures of both Parties, and remain in force until 1 July 1989, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving written notice of such termination to the other Party six months in advance.

2. At the request of either Party, this Agreement shall be subject to review by the two Parties two years after its entry into force.

TIL BEKRÆFTELSE HERAF har undertegnede, der er behørigt befuldmægtigede hertil, underskrevet denne aftale.

ZU URKUND DESSEN haben die hierzu gehörig befugten Bevollmächtigten dieses Abkommen unterzeichnet.

ΣΕ ΕΠΙΒΕΒΑΙΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι υπογεγραμμένοι πληρεξούσιοι υπέγραψαν την παρούσα συμφωνία.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

EN FOI DE QUOI, les soussignés, dûment habilités à cet effet, ont signé le présent accord.

IN FEDE DI CHE, i sottoscritti, debitamente autorizzati a tal fine, hanno firmato il presente accordo.

TEN BLIJKE WAARVAN de ondergetekenden, daartoe naar behoren gemachtigd, deze Overeenkomst hebben ondertekend.

UDFÆRDIGET i Washington, den 1. oktober 1984 på dansk, engelsk, fransk, græsk, italiensk, nederlandsk og tysk, idet hver af disse tekster har samme gyldighed.

GESCHEHEN zu Washington am 1. Oktober 1984 in dänischer, deutscher, englischer, französischer, griechischer, italienischer und niederländischer Sprache, wobei jeder Wortlaut gleichermassen verbindlich ist.

ΕΓΙΝΕ στην Ουάσιγκτον, την 1η Οκτωβρίου, 1984 στην αγγλική, δανική, ολλανδική, γαλλική, γερμανική, ελληνική και ιταλική γλώσσα και όλα τα κείμενα αυτά είναι εξίσου αυθεντικά.

DONE at Washington, 1st October, 1984 , in the Danish, Dutch, English, French, German, Greek and Italian languages, each of these texts being equally authentic.

FAIT à Washington, le 1er octobre 1984, en langues allemande, anglaise, danoise, française, grecque, italienne et néerlandaise, tous les textes faisant également foi.

FATTO a Washington, il primo ottobre 1984, in lingua danese, francese, greca, inglese, italiana, olandese e tedesca, ciascun testo facente ugualmente fede.

GEDAAN te Washington op 1 de oktober 1984, in de Deense, de Duitse, de Engelse, de Franse, de Griekse, de Italiaanse en de Nederlandse taal, zijnde alle teksten gelijkelijk authentiek.

For the Government of the United States of America,
For regeringen for Amerikas forenede Stater,
Für die Regierung der Vereinigten Staaten von Amerika,
Για την κυβέρνηση των Ηνωμένων Πολιτειών Αμερικής,
Pour le Gouvernement des Etats-Unis d'Amérique,
Per il Governo degli Stati Uniti d'America,
Voor de Regering van de Verenigde Staten van Amerika,

E. E. Wolfe

For the Council of the European Communities,
For Rådet for De europæiske Fællesskaber,
Für den Rat der Europäischen Gemeinschaften,
Για το Συμβούλιο των Ευρωπαϊκών Κοινοτήτων,
Pour le Conseil des Communautés européennes,
Per il Consiglio delle Comunità Europee,
Voor de Raad van de Europese Gemeenschappen,

Roy Jenkins

ANNEX

application and permit
PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of the Member States of the Community to engage in fishing for living resources over which the United States has sovereign rights to explore, exploit, conserve and manage:

1. The Community may submit an application to the competent authorities of the United States for each fishing vessel of a Member State of the Community that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify:

a) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

c) a specification of each fishery in which each vessel wishes to fish;

d) the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e) the ocean area in which, and the season or period during which, such fishing would be conducted; and

f) such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fee will be required, and shall inform the Community of such determinations. The Government of the United States reserves the right not to approve applications. If permit applications are disapproved, the United States authorities will inform the Community of the reasons for such disapproval.

4. The Community shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Community and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of a Member State of the Community which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Community notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Community may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Parties.

AGREED MINUTES

1. The representative of the Government of the United States declared that the Agreement reflects United States domestic law and policy. The representative of the Community drew attention to Community laws and policies, in particular the common fisheries and commercial policies, and declared that the application of the Agreement by the Community would need to respect those laws and policies.

2. The representatives of the two Parties noted that the Agreement is a framework Agreement containing no specific fisheries arrangements and, with particular reference to Articles IV, V, and XVI, no concrete commitments by either Party. Instead, the Agreement establishes the terms and conditions under which allocations can be made if surpluses exist, and it illustrates the kinds of assistance that may be sought in exchange for allocations.

3. The representatives of the two Parties acknowledged the level of co-operation in the past in fisheries relations, including fisheries joint ventures, fisheries processing, fisheries trade and fisheries allocations, and the advantages to the industries concerned of providing stability of co-operation in such areas; the Parties looked forward to continued and improved co-operation for their mutual benefit over the life of the Agreement.

4. With respect to Article I and Article II, paragraph 1, of the Agreement, the representatives of the two Parties took note of the provisions of the Convention for the Conservation of Salmon in the North Atlantic Ocean, in particular Articles 1 and 2, and reaffirmed the commitments of both Parties under that Convention. The representative of the Government of the United States expressed his understanding that, if necessary, Article XIV of the Agreement would provide, inter alia, for consultations between the Parties with respect to anadromous species.

5. The representative of the Government of the United States declared that, in making allocations under the Agreement of 1977, the United States has, since the enactment of the American Fisheries Promotion Act of 1980, carried out the kind of evaluation prescribed in Article IV of the present Agreement. The United States has undertaken, in the case of any reduction in allocations, to inform the Community of the reasons for such a reduction.

6. The representatives of the two Parties agreed that the volume of the catches available to the Community in the United States exclusive economic zone shall be distributed by the Community consistently with the amounts designated in accordance with United States law by the United States pursuant to Article IV of the Agreement, the objectives of the Agreement, and existing practices.

7. The representative of the Government of the United States took note of a declaration by the representative of the Community that the matters referred to in Article IV, point viii), of the Agreement should be confined to the fisheries sector, and that the Community would terminate the Agreement under Article XIX in case of any other matters being taken into account by the United States authorities to the disadvantage of the Community or in case the use of Article IV or V of the Agreement significantly affects the common fisheries or the common commercial policies.

8. The representative of the Government of the United States noted the statement of the representative of the Community that the willingness of the Community to assist in the development of the United States fishing industry under Article V of the Agreement would take into account the level of United States allocations under Article III.

9. The representative of the Community stated that, with reference to Article XVI of the Agreement, the Community's fishing zone includes all the fishery conservation zones or their equivalent of the Member States of the Community to which the relevant rules of the Treaty establishing the Community apply and under the conditions of that Treaty.

10. The representatives of the two Parties agreed that owners or operators of vessels of Member States of the Community shall provide authorities of the Community with such information as may be required on the amounts of fish harvested or transferred pursuant to this Agreement.

11. The representatives of the two Parties agreed that nothing in the Agremeent shall affect or prejudice in any manner the views of either Party with respect to any questions relating to the law of the sea.

ANNEX IV

No. 10

The United States Mission to the European Communities presents its compliments to the Commission of the European Communities and wishes to draw the attention of the Commission of the European Communities to the agreement between the Government of the United States of America and the European Communities concerning fisheries off the coasts of the United States, signed at Washington on October 1, 1984, and due to expire on July 1, 1989. The United States proposes that the agreement be extended until July 1, 1991, and that it be amended as follows:

A. In Article III, Paragraph 2, replace the words "necessitated by unforeseen circumstances affecting the stocks" with the word "appropriate."

B. In Article IV, replace the phrase, "the Magnuson Fishery Conservation and Management Act, as amended, that is:" with the phrase, "U.S. law, including:". Remove quotation marks and replace italic numerals which follow with corresponding arabic numerals.

ATTACHMENT B

C. In Article IV, Paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;"

D. In Article IV, Paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;"

E. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the member states of the European Communities are harvesting United States origin anadromous species at unacceptable levels, or whether the European Communities are failing to take sufficient action to benefit the conservation and development of United States fisheries."

F. In Article XII, Paragraph 4, at the end of the paragraph, add the following sentence: "The European Communities shall similarly provide such economic data as may be requested by the United States."

G. In Article XIX, replace the date "1 July 1989" with the date "July 1, 1991".

The United States proposes that if the extension and the amendments set out in this note are acceptable to the European Communities, this note and the reply of the European Communities to that effect shall constitute an agreement between the Government of the United States of America and the European Communities amending the agreement concerning fisheries off the coasts of the United States and extending that agreement until July 1, 1991. This agreement shall enter into force on a date to be agreed upon by exchange of diplomatic notes following the completion of internal procedures of both parties.

The Mission takes this opportunity to renew to the Commission the assurance of its highest consideration.

The United States Mission
to the European Communities,
September 15, 1988.

ACTION
is assigned to
OES

Note from the European Economic Community

The Directorate General for External Relations of the Commission of the European Communities presents its compliments to the United States Mission of the European Communities and has the honour to acknowledge receipt of the Mission's Note of 15 September 1988, which reads as follows:

> "The United States Mission to the European Communities presents its compliments to the Commission of the European Communities and wishes to draw the attention of the Commission of the European Communities to the agreement between the Government of the United States of America and the European Communities concerning fisheries off the coasts of the United States, signed at Washington on 1 October 1984, and due to expire on 1 July 1989. The United States proposes that the agreement be extended until 1 July 1991, and that it be amended as follows:
>
> A. In Article III, paragraph 2, replace the words "necessitated by unforeseen circumstances affecting the stocks" with the word "appropriate".
>
> B. In Article IV, replace the phrase, "the Magnuson Fishery Conservation and Management Act, as amended, that is:" with the phrase, "US law, including:". Remove quotation marks and replace italic numberals which follow with corresponding arabic numerals.
>
> C. In Article IV, paragraph 1, replace the phrase "of United States fish or fishery products" with "of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;".

D. In Article IV, paragraph 2, replace the present text with the following: "Whether, and to what extent, such nation is co-operating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;".

E. In Article VII, before the final sentence, insert the following: "While such fees shall be applied without discrimination, the fee level may vary depending upon, inter alia, whether, in the judgment of the United States, vessels or nationals of the Member States of the European Communities are harvesting United States origin anadromous species at unacceptable levels, or whether the European Communities are failing to take sufficient action to benefit the conservation and development of United States fisheries.".

F. In Article XII, paragraph 4, at the end of the paragraph, add the following sentence: "The European Communities shall similarly provide such economic data as may be requested by the United States.".

G. In Article XIX, replace the date "1 July 1989" with the date "1 July 1991".

The United States proposes that if the extension and the amendments set out in this note are acceptable to the European Communities, this note and and the reply of the European Communities to that effect shall constitute an agreement between the Government of the United States of America and the European Communities amending the agreement concerning fisheries off the coasts of the United States and extending that agreement until 1 July 1991. This agreement shall enter into force on a date to be agreed upon by exchange of diplomatic notes following the completion of internal procedures of both parties.".

The Directorate General for External Relations of the Commission of the European Communities has the honour to confirm that the contents of the above note are acceptable to the European Economic Community and that the above note and this note constitute an Agreement in accordance with the proposal of the Government of the United States of America.

The Directorate General for External Relations of the Commission of the European Communities takes this opportunity to renew to the United States Mission to the European Communities the assurance of its highest consideration.

Done at Brussels on 27th February 1989

On behalf of the Council of the
European Communities

The Directorate General for
External Relations of the
Commission of the European Communities